

STAFF RECOMMENDS DENIAL

ORDINANCE NO.

1 **AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT**
2 **1111 BERGER STREET FROM CERTAIN FLOODPLAIN REGULATIONS**
3 **PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF AN ADDITION**
4 **TO A RESIDENCE IN THE 25- AND 100-YEAR FLOODPLAINS; AND**
5 **PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.**
6

7 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**
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9 **PART 1.** This ordinance applies to the construction of a 434 square foot addition to an
10 existing house located at 1111 Berger Street within the 25- and 100-year floodplains as
11 described in Building Permit Application No. BP-07-125798.

12 **PART 2.** Council has considered the factors for granting a variance from floodplain
13 regulations prescribed by City Code Section 25-12-3, Building Code Appendix G,
14 Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by
15 this ordinance are the minimum necessary to afford relief, are based on good and
16 sufficient cause, and failure to grant the variance would result in exceptional hardship.
17 Council further finds that the variances granted in this ordinance will not result in
18 increased flood heights, additional threats to public safety, or extraordinary public
19 expense, or create a nuisance, cause fraud on or victimization of the public, or conflict
20 with existing local laws or ordinances.

21 **PART 3.** A variance is granted from:

- 22 (A) the restriction on construction in the 100 and 25-year floodplains prescribed
23 by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- 24 (B) the easement requirements in City Code Section 25-7-152 (*Dedication of*
25 *Easements and Rights-of-Way*), to exclude the residence from the
26 requirement to dedicate an easement to the limits of the 100-year floodplain;
- 27 (C) the prohibition against placing an obstruction in a waterway prescribed by
28 City Code Section 25-7-2 (*Obstruction of Waterways Prohibited*);
- 29 (D) the requirement that normal access to the building be by direct connection
30 with an area at least one foot above the design flood elevation prescribed by
31 City Code Section 25-12-3, Building Code Section 1612.4.3 (*Means of*
32 *Egress*); and

- 1 (E) the prohibition against expanding, changing, enlarging, or altering a
2 structure in a way which increases its nonconformity prescribed by City
3 Code Section 25-12-3, Building Code Appendix G, Section G102.3
4 (*Nonconforming Uses*).

5 **PART 4.** The variance granted in this ordinance is effective only upon the satisfaction of
6 the following conditions:

- 7 (A) The lowest floor elevations for both the existing structure and the proposed
8 addition must be a minimum of 461.60 feet above mean sea level.
- 9 (B) The applicant shall submit a completed Elevation Certificate to the City
10 certifying the elevation of the finished floor of the finished structure signed
11 by a Texas registered professional land surveyor. The City may not issue a
12 Certificate of Occupancy for the proposed structure until the applicant
13 submits the Elevation Certificate.
- 14 (C) The applicant shall submit a completed certification to the City certifying
15 that the existing structure and the proposed addition will withstand the flood
16 forces generated by the 100-year flood and that the design and construction
17 is in accord with the latest edition of the American Society of Civil
18 Engineers Manual 24 (*Food Resistant Design and Construction*) signed by a
19 Texas registered professional engineer or architect. The City may not issue
20 a Building Permit for the proposed structure until the applicant submits the
21 required certification.

22 **PART 5.** This variance expires if the project for which this variance is granted does not
23 receive all necessary building permits before November 12, 2008.

24 **PART 6.** Approval of this variance does not constitute approval of zoning, subdivision,
25 a site plan, a building permit, or any other development permit, and it does not constitute
26 a commitment to any particular land use, intensity of land use, or utility services.
27 Approval of this variance does not constitute a guarantee of flood insurance availability,
28 rates, or requirements.

29 **PART 7.** This ordinance takes effect on _____, 2007.

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PASSED AND APPROVED

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_____, 2007

Will Wynn
Mayor

APPROVED: _____

ATTEST: _____

David Allan Smith
City Attorney

Shirley A. Gentry
City Clerk

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